CHAPTER 21

CASELOAD ALLOCATION PLANS

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Background

Ind. Administrative Rule 1(E), which became effective January 1, 2006, requires the courts of record in a county to develop and implement caseload allocation plans (CAP) that ensure an even distribution of judicial workload among the courts in the county. Pursuant to Ind. Trial Rule 81(C), the Indiana Supreme Court, Division of State Court Administration has also published a "Schedule and Format for Adoption of County Caseload Allocation Plans" detailing when various counties must submit a plan and the sequence of steps toward approval of the plan. The Division has also prepared a Primer for Caseload Allocation Plans to assist the trial courts in preparing their plans. The Primer contains sample forms and worksheets that the courts may find helpful.

Timing

The courts of record in a county must submit a plan, or revalidate the existing plan, not less than once every two (2) years. In the year your county must submit a plan, the timing of the process follows the schedule for adopting or amending local court rules under Ind. Trial Rule 81:

TRIAL RULE 81 DEADLINES AS APPLICABLE TO CASELOAD ALLOCATION PLANS

DATE	EVENT
Prior to June 1	Submit text of the CAP to State Court Administration
June 1	Notice of Proposed Rule Published locally and on the Indiana Judicial Website. Thirty-day comment period
July1-July 31	Trial Courts must approve a final plan
August 1 or before	Submit locally approved plan to State Court Administration
August 1-October 1	State Court Administration will review plans and make recommendation to the Supreme Court for approval, modification or rejection
October 1 or before	Supreme Court review and decision
November 1 or before	Revised plans due to Supreme Court
November 15 or before	Supreme Court review and decisions on any resubmitted plans
January 1 following year	Approved plans become effective

Plan Evaluation

Plans are evaluated by applying the distribution of cases defined in the county caseload allocation plan to the new filings reported by the courts of record within the county during the preceding year. This identifies the judicial "need" of the court represented by the court's caseload. If applicable, additional judicial resources, such as the use of a magistrate or commissioner, are then factored in for the appropriate court(s). This judicial resources number represents the "have" of the court. The "need" figure is divided by the "have" figure in order to produce an estimate of the weighted caseload utilization in each court. The utilization variance is calculated by subtracting the lowest utilization in the county from the highest utilization in the county. An even distribution of caseload is defined as a maximum utilization variance of 0.40 between any two courts or record in a county.

How to Prepare a Caseload Allocation Plan

First, review your existing, approved plan contained in your local rule or rules that set forth your CAP. Next, examine the Weighted Caseload Measures Report to find the utilization of each of your courts in your county for the previous calendar year. The Division posts this report on-line by April 15. The Weighted Caseload Measures (WCM) provides a relative weight or count, in minutes, for each case. The Weighted Caseload Measures Report is based on the prior year's Quarterly Caseload Statistics Reports submitted by each of the courts of record. This research will provide you with the Utilization Factor for your court. **Need ÷ Have = Utilization.**

The utilization factor is the linchpin of the entire CAP process. It will show whether a court has a caseload well above capacity or if it is woefully underutilized. In Indiana the factors range from figure like .42 to 2.58. A low caseload utilization figure does not mean that a court is not working efficiently or diligently, just as a high caseload utilization figure does not always mean a court is working exceedingly hard. Because these measures only count filed cases, the utilization number represents how much work a particular court has to process in a given year.

Rule 1(E) requires the courts in each county have utilization factors that are within .40 of each other.

If your current plan does not result in a utilization variance greater than .40 between any two courts in the county and you do not want to make any changes to your plan, then you can submit a Request to Re-Adopt your local plan.

However, if there is a variance greater than .40, or if you wish to make changes in your plan, you will need to amend your plan to bring it into compliance with Rule 1(E). Start with the number of new case filings for the previous year in each of your courts. These figures can be obtained locally by printing out copies of all the QCSRs that you filed or from the Division of State Court Administration. For example, you may find that simply

moving all of the Class A Felonies from one court to another may reduce the variance in utilization factors enough to bring your plan into compliance. Once the CAP has been developed and is shown to be in compliance with the permissible .40 variance, all the judges in the county have to approve it. The next step is to put it into the form of a local rule.

Local Rules Process

The first step in the local rule phase of the process is to show the changes to the existing plan with strikethroughs and standard rule revision formatting.

Step two is to provide Notice of the proposed rule change. Publication of the Notice is considered complete when the courts send the text of the Notice, and the proposed Local Rule adopting or amending the CAP *in a digital format* to State Court Administration and the County Clerk on or before June 1.

The Clerk will post the notice in the clerk's office and on its website if it has one. The Division will also post the proposed Local CAP Rule on the Indiana Judicial System website for that particular county. The trial courts are also required to notify the president and secretary of any local county bar associations.

June 1 is opening day of the 30-day comment period. Each court selects who shall receive public comments for the court. Follow the notice guidelines in Indiana Trial Rule 81.

Between July 1 and 31, the trial courts must approve a final plan. The plan can be identical to the one first submitted or modified based on comments or other information.

By August 1, the trial courts must submit the now locally approved plan to the Division of State Court Administration digitally and in hard copy in a *clean* format absent of strikethroughs and underlinings together with a Request to the Supreme Court to approve the plan.

Between August 1 and October 1, State Court Administration will review the plans and make recommendation to the Indiana Supreme Court for approval, modification, or rejection. During this period the staff of State Court Administration works assiduously to make sure no plan is in danger of being rejected.

By October 1, the Supreme Court will review the plans and either approve, reject, or return them for revisions.

By November 1, any revised plans are due to the Supreme Court.

By November 15, the Supreme Court will make its final decision on any resubmitted plans.

On January 1, the approved plans become effective. For the trial courts, the CAP process is complete, until 18 months later, when it begins again.

Two caveats: If a county fails to produce a plan, the Supreme Court will require the Division of State Court Administration to draft one for the county. Also, a county can revise its plan outside of the normal schedule. An ad hoc schedule will be developed that generally follows the same time periods for comment and Supreme Court approval.

Tips and Suggestions

Incorporating the following suggestions when developing a county caseload allocation plan will expedite the approval process.

- Caseload allocation plans must address **all** recognized case types except for those in which there can be no new filings (CF – Criminal Felony before 1/1/2002, CP – Civil Plenary before 1/1/2002, and AH – Adoption History), and Court Business (CB). This is the case even if the county intends to continue historic filing patterns for some or most case types.

- The Indiana Supreme Court, Division of State Court Administration tracks filings by the case types used in filing Quarterly Case Status Report statistics. If the proposed Plan's allocation of cases is based upon units that are finer than those recognized case types (for example, if cases within a case type are assigned to a court based upon the charge that is being filed, such as "all cases involving felonies filed under Title 9"), then estimates of the number of such cases that were filed in the preceding year must be provided along with the Plan.

- Be certain to include **all** additional judicial officers that serve in the county, along with the relative proportion of time that they serve in **each** court.

- Please note any case types that will be filed in the same manner as under the previous local rules. For example, if the plaintiff's attorney chooses the court of filing for Domestic Relations (DR) cases, please indicate that filing is discretionary among the appropriate courts.

- Please note any additional factors or situations specific to the county that may not accurately be reflected in the weighted caseload utilizations or county caseload allocation plan, such as drug court or other "problem solving" court programs.

- It may be helpful to consider some of the following concepts and terminology when amending a caseload allocation plan:

  Random Filing – Under random filing, each court that has the jurisdiction to hear a specific case type has an equal chance of having such a case filed in that court. The following assumption is made when evaluating caseload allocation

plans incorporating random filing: Case types that are randomly filed will be distributed equally among the appropriate courts despite the fact that truly random filing is seldom equal.

Filing Ratios – In some cases it may be more suitable to file cases differentially among courts using a pre-determined ratio. For example, a county may decide to file Class D Felonies among three courts in a ratio of 2:1:1. In other words, 50% of Class D Felonies may be filed in one court and 25% of Class D Felonies filed in two additional courts.

Discretionary Filing (civil cases only) – The court of filing is chosen, or selected, by the attorney, or party, filing the case. Discretionary filing seldom results in an even distribution of cases between courts and the differential filing of cases between courts often becomes more dramatic over time.

Filing Caps – A predetermined threshold, or filing cap, is set for specific case types. A filing cap works by limiting the number of cases that can be filed in a certain court until the number of filings in the other available courts "catch-up." Filing caps are an excellent alternative for counties wishing to move away from discretionary filing, but do not wish to remove all discretion from the filing attorney. For example, a county in which three courts can hear Civil Collections (CC) cases can apply a filing cap of 100. CC cases may be filed in any of the three courts until 100 have been filed in one of them. At that point, no new CC cases may be filed in that court until each of the other two courts reach 100 filings. Typically, when filing caps are met in all applicable courts, then the cycle repeats. In the previous example the cycle would start over once the first 300 cases (three courts with a filing cap of 100 each) are filed.

The Division's court analysts, James Diller, jim.diller@courts.in.gov and Angela James, angela.james@courts.in.gov, are available to assist and make suggestions in development of your plans, and staff attorney, James Maguire, james.maguire@courts.in.gov, can answer any questions you might have about the local rules process. Jeffrey Wiese, Director of Trial Court Management, jeffrey.wiese@courts.in.gov, is always willing to help you as well.

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